

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE APRIL 11, 2016
AMENDED IN SENATE MARCH 15, 2016

SENATE BILL

No. 824

Introduced by Senator Beall

January 7, 2016

An act to amend Section 75230 of, and to add Section 75231 to, the Public Resources Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 824, as amended, Beall. Low Carbon Transit Operations Program.

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.

Existing law continuously appropriates specified portions of the annual proceeds in the Greenhouse Gas Reduction Fund to various programs, including 5% for the Low Carbon Transit Operations Program, for expenditures to provide transit operating or capital assistance consistent with specified criteria. Existing law provides for distribution of available funds under the program by a specified formula to recipient transit agencies by the Controller, upon approval of the recipient transit agency's proposed expenditures by the Department of Transportation.

This bill would authorize a recipient transit agency that does not submit a project *an expenditure* for funding under the program in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year. The bill would allow a recipient transit agency

to loan or transfer its funding share in any particular fiscal year to another recipient transit agency within the same region, ~~to pool its funding share with those of other recipient transit agencies~~, or to apply to the department to reassign, to other eligible expenditures under the program, any savings of surplus moneys from an approved and completed expenditure under the program or from an approved expenditure that is no longer a priority, as specified. The bill would also allow a recipient transit agency to apply to the department for a letter of no prejudice for any eligible expenditures under the program for which the department has authorized a disbursement of funds, and, if granted, would allow the recipient transit agency to expend its own moneys and to be eligible for future reimbursement from the program, under specified conditions. The bill would also require a recipient transit agency to provide additional information to the department to the extent funding is sought for capital projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 75230 of the Public Resources Code is
- 2 amended to read:
- 3 75230. (a) The Low Carbon Transit Operations Program is
- 4 hereby created to provide operating and capital assistance for transit
- 5 agencies to reduce greenhouse gas emissions and improve mobility,
- 6 with a priority on serving disadvantaged communities.
- 7 (b) Funding for the program is continuously appropriated
- 8 pursuant to Section 39719 of the Health and Safety Code from the
- 9 Greenhouse Gas Reduction Fund established pursuant to Section
- 10 16428.8 of the Government Code.
- 11 (c) Funding shall be allocated by the Controller on a formula
- 12 basis consistent with the requirements of this part and with Section
- 13 39719 of the Health and Safety Code, upon a determination by the
- 14 Department of Transportation that the expenditures proposed by
- 15 a recipient transit agency meet the requirements of this part and
- 16 guidelines developed pursuant to ~~subdivision (f)~~, *this section*, and
- 17 that the amount of funding requested is currently available.
- 18 (d) A recipient transit agency shall demonstrate that each
- 19 expenditure of program moneys allocated to the agency reduces
- 20 greenhouse gas emissions.

(e) Moneys for the program shall be expended to provide transit operating or capital assistance that meets any of the following:

(1) Expenditures supporting new or expanded bus or rail services, new or expanded water-borne transit, or expanded intermodal transit facilities, and may include equipment acquisition, fueling, and maintenance, and other costs to operate those services or facilities. ~~A recipient transit agency may use program moneys for the costs to operate new or expanded service in the fiscal year in which the service is first implemented, and in any subsequent fiscal year if the agency can demonstrate that additional reductions in greenhouse gas emissions can be realized.~~

(2) Expenditures that ~~directly enhance or expand transit service to increase mode share.~~

(3) ~~Any other expenditure for which the recipient transit agency can demonstrate that the expenditure reduces greenhouse gas emissions.~~

(3) Expenditures related to the purchase of zero-emission buses, including electric buses, or the installation of the necessary equipment and infrastructure to operate and support zero-emission buses.

(f) For recipient transit agencies whose service areas include disadvantaged communities as identified pursuant to Section 39711 of the Health and Safety Code, at least 50 percent of the total moneys received pursuant to this chapter shall be expended on projects or services that meet requirements of subdivision (d) and benefit the disadvantaged communities, consistent with the guidance developed by the State Air Resources Board pursuant to Section 39715 of the Health and Safety Code.

(g) The Department of Transportation, in coordination with the State Air Resources Board, shall develop guidelines that describe the methodologies that recipient transit agencies shall use to demonstrate that proposed expenditures will meet the criteria in subdivisions (d) and (f) and establish the reporting requirements for documenting ongoing compliance with those criteria.

(h) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development of guidelines for the program pursuant to this section.

(i) A recipient transit agency shall submit the following information to the Department of Transportation before seeking a disbursement of funds pursuant to this part:

(1) A list of proposed expense types for anticipated funding levels.

(2) The documentation required by the guidelines developed pursuant to this section to demonstrate compliance with subdivisions (d) and (f).

(j) For capital projects, the recipient transit agency shall also do all of the following:

(1) Specify the phases of work for which the agency is seeking an allocation of moneys from the program.

(2) Identify the sources and timing of all moneys required to undertake and complete any phase of a project for which the recipient agency is seeking an allocation of moneys from the program.

(3) Describe intended sources and timing of funding to complete any subsequent phases of the project, through construction or procurement.

(k) A recipient transit agency may use program moneys for operating assistance in the fiscal year in which the service is first implemented, and in any subsequent fiscal year if the agency can demonstrate that reductions in greenhouse gas emissions can be realized.

~~(k)~~

(l) Before authorizing the disbursement of funds, the Department of Transportation, in coordination with the State Air Resources Board, shall determine the eligibility, in whole or in part, of the proposed list of expense types, based on the documentation provided by the recipient transit agency to ensure ongoing compliance with the guidelines developed pursuant to this section.

~~(l)~~

(m) The Department of Transportation shall notify the Controller of approved expenditures for each recipient transit agency, and the amount of the allocation for each agency determined to be available at that time of approval.

~~(m)~~

(n) A recipient transit agency that does not submit a project *an expenditure* for funding in a particular fiscal year shall retain its funding share, and may accumulate and utilize that funding share

1 in a subsequent fiscal year for a larger ~~expenditure~~. *expenditure*,
2 *including operating assistance*. The recipient transit agency shall
3 specify the number of fiscal years that it intends to retain its
4 funding share and the expenditure for which the agency intends
5 to use these moneys. There shall be no limit on the number of
6 fiscal years that a recipient transit agency may retain its funding
7 share.

8 ~~(n)~~

9 (o) A recipient transit agency may, in any particular fiscal year,
10 loan or transfer its funding share to another recipient transit agency
11 within the same region for any identified eligible expenditure under
12 the program, *including operating assistance*, in accordance with
13 procedures incorporated by the Department of Transportation in
14 the guidelines developed pursuant to this section, which procedures
15 shall be consistent with the requirement in subdivision (f).

16 ~~(o) A group of recipient transit agencies may, in any particular~~
17 ~~fiscal year, enter into an agreement to pool the respective funding~~
18 ~~shares of each member of the group for any identified eligible~~
19 ~~expenditure under the program, in accordance with procedures~~
20 ~~incorporated by the Department of Transportation in the guidelines~~
21 ~~developed pursuant to this section, which procedures shall be~~
22 ~~consistent with the requirement in subdivision (f).~~

23 (p) A recipient transit agency may apply to the Department of
24 Transportation to reassign any savings of surplus moneys allocated
25 under this section to the agency for an expenditure that has been
26 completed to another eligible expenditure under the ~~program~~.
27 *program, including operating assistance*. A recipient transit agency
28 may also apply to the Department of Transportation to reassign to
29 another eligible expenditure any moneys from the program
30 previously allocated to the agency for an expenditure that the
31 agency has determined is no longer a priority for the use of those
32 moneys.

33 (q) The recipient transit agency shall provide annual reports to
34 the Department of Transportation, in the format and manner
35 prescribed by the department, consistent with the internal
36 administrative procedures for use of fund proceeds developed by
37 the State Air Resources Board.

38 (r) The Department of Transportation and recipient transit
39 agencies shall comply with the guidelines developed by the State
40 Air Resources Board pursuant to Section 39715 of the Health and

1 Safety Code to ensure that the requirements of Section 39713 of
2 the Health and Safety Code are met to maximize the benefits to
3 disadvantaged communities as described in Section 39711 of the
4 Health and Safety Code.

5 (s) The audit of public transportation operator finances already
6 required under the Transportation Development Act pursuant to
7 Section 99245 of the Public Utilities Code shall be expanded to
8 include verification of receipt and appropriate expenditure of
9 moneys from the program. Each recipient transit agency receiving
10 moneys from the program in a fiscal year for which an audit is
11 conducted shall transmit a copy of the audit to the Department of
12 Transportation, and the department shall make the audits available
13 to the Legislature and the Controller for review on request.

14 SEC. 2. Section 75231 is added to the Public Resources Code,
15 to read:

16 75231. (a) A recipient transit agency under the program created
17 pursuant to Section 75230 may apply to the Department of
18 Transportation for a letter of no prejudice for any eligible
19 expenditures under the ~~program~~ *program, including operating*
20 *assistance*, for which the department has authorized a disbursement
21 of funds. If approved by the department, the letter of no prejudice
22 shall allow the recipient transit agency to expend its own moneys
23 for the expenditures and to be eligible for future reimbursement
24 from moneys available for the program.

25 (b) The amount expended under subdivision (a) shall be
26 reimbursed by the state from moneys available for the program if
27 all of the following conditions are met:

28 (1) The expenditures for which the letter of no prejudice was
29 requested have commenced, and any regional or local expenditures,
30 if applicable, have been incurred.

31 (2) The expenditures made by the recipient transit agency are
32 eligible under the program. If expenditures made by the recipient
33 transit agency are determined to be ineligible, the state has no
34 obligation to reimburse those expenditures.

35 (3) The recipient transit agency complies with all legal
36 requirements for the expenditures, including the requirements of
37 the California Environmental Quality Act (Division 13
38 (commencing with Section 21000)), if applicable.

1 (4) There are moneys in the Greenhouse Gas Reduction Fund
2 designated for the program that are sufficient to make the
3 reimbursement payment.

4 (c) The recipient transit agency and the Department of
5 Transportation shall enter into an agreement governing
6 reimbursement as described in this section. The timing and final
7 amount of reimbursement shall be dependent on the terms of the
8 agreement and the availability of moneys in the Greenhouse Gas
9 Reduction Fund for the program.

10 (d) The Department of Transportation, in consultation with
11 recipient public transit agencies, may develop guidelines to
12 implement this section.